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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/372,474	08/11/1999	ELDON E. BAIRD	238/168	1434

7590 03/31/2005

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EXAMINER

MARSCHER, ARDIN H

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/372,474

Applicant(s)

BAIRD ET AL.

Examiner

Ardin Marschel

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,42-45 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-5,42-45, and 50 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

41

DETAILED ACTION

This application is in condition for allowance except for the following formal matters:

Specification formal matters:

On page 1 of the specification the section entitled CROSS REFERENCE TO RELATED APPLICATIONS contains inconsistencies that require clarification and/or correction.

The first such inconsistency is that a preliminary amendment added a claim of priority to PCT/US98/01714 but did not define the relationship to the instant application such as C-I-P, DIV, CON, etc. This is also an inconsistency with the request for corrected filing receipt, filed 11/15/99.

The second such inconsistency is that lines 11-14 in the instant specification on page 1 indicate that several applications are continuation-in-part applications but at least one such presumed parent application has a filing date that is later than applications which seem to be indicated as child applications. For example, Application Serial Number 08/837,524 in the parentage section has a filing date of April 21, 1997 which is later than the filing date of PCT/US97/03332, filed February 20, 1997, which is in the child application section of said cross reference paragraph.

The third inconsistency is that the filing date of Application Serial Number 08/853,522 is incorrect in said paragraph. It should be January 30, 1998, and not May 8, 1997, as presently in said cross reference paragraph.

Fourthly, the status of applications which have become either abandoned or patented should be added to this paragraph.

Applicants are requested to submit an amended paragraph to replace lines 10-14 on page 1 of the specification to correct inconsistencies.

Oath or Declaration formal matters:

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

This application presents a claim for subject matter not originally claimed or embraced in the statement of the invention regarding priority documents, such as PCT/US98/01714, etc. It also cites an incorrect filing date for Application Serial Number 08/853,522. A supplemental oath or declaration is required under 37 CFR 1.67. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP §§ 602.01 and 602.02.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Art Unit: 1631


Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the Central PTO Fax Center. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993)(See 37 CFR § 1.6(d)). The Central PTO Fax Center number is (571) 273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ardin Marschel, Ph.D., AU 1631 Supervisory Patent Examiner, whose telephone number is (571) 272-0718. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

Any inquiry of a general nature or relating to the status of this application should be directed to Legal Instrument Examiner, Tina Plunkett, whose telephone number is (571) 272-0549.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 26, 2005

 3/26/05
ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER